

ORDINANCE NO. 2012-04

**AN ORDINANCE OF THE CITY OF LOS ALAMITOS, CALIFORNIA,
AMENDING AND REPLACING PORTIONS OF CHAPTER 3.20 OF
THE LOS ALAMITOS MUNICIPAL CODE TO DECREASE THE RATE
AND MODERNIZE THE TELEPHONE USERS TAX TO PRESERVE
AND FUND IMPORTANT CITY SERVICES**

WHEREAS, the City of Los Alamitos has collected a Telephone Users Tax (TUT) since 1991 and the current rate of the TUT is 6%; and,

WHEREAS, the City desires to reduce the tax rate on telecommunications services from 6% to 5%; and,

WHEREAS, the City desires to treat users of communications services in a uniform and equitable manner, regardless of the means of transmission or technology used, so that users of communications services transmitted by traditional technologies (such as land lines) do not bear a greater tax burden than users of communications services transmitted via newly developed technologies; and,

WHEREAS, telephony and related communications services have changed dramatically since the inception of the TUT and communications technology, telephone calling and marketing plans, and the state and federal legislation that regulates them, continue to evolve at a rapid pace; and,

WHEREAS, in particular, communications are no longer accomplished entirely through the switched network, wireless service has become prevalent, communications through other means are increasing in popularity, the overall cost of communications is declining, common charges are no longer based upon distance and the federal government has been extremely active in adopting laws affecting the telecommunications industry; and,

WHEREAS, any modernization and clarification of the TUT to include current technologies and reflect the realities of the current communications industry requires voter approval under the California Constitution; and,

WHEREAS, the revenue generated by the TUT is likely to be lost over time due to market erosion, changing technology and other factors; and,

WHEREAS, the City needs the revenue generated by the TUT to continue to provide essential City services such as safety services, street maintenance and park and recreation services.

NOW, THEREFORE, The People of the City of Los Alamitos do ordain, as follows:

Section 1. The following sections of Chapter 3.20 of the Los Alamitos Municipal Code are hereby added, amended and replaced to read as follows:

3.20.040 Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

1. "Ancillary Telecommunications Services" means services that are associated with or incidental to the provision, use or enjoyment of Telecommunications Services, including but not limited to the following services:
 - (1) services that link two or more participants of an audio or video conference call and may include the provision of a telephone number.
 - (2) services that separately state information pertaining to individual calls on a customer's billing statement.
 - (3) services that provide telephone number information and/or address information.
 - (4) services offered in connection with one or more telecommunications services that offer advanced calling features that allow customers to identify callers and to manage multiple calls and call connections.
 - (5) services that enable the customer to store, send or receive recorded messages.
2. "Billing Address" means the mailing address of the Service User where the Service Supplier submits invoices or bills for payment by the customer.
3. "City" means the city of Los Alamitos.
4. "Gas" means natural or manufactured gas or any alternate hydrocarbon fuel which may be substituted therefor.
5. "Month" means a calendar month.
6. "Person" means without limitation, any domestic, non-profit or foreign corporation, firm, association, syndicate, joint-stock company, partnership of any kind, joint venture, club, trust, limited liability company, business or common-law trust, society, any natural individual, cooperative, receiver, trustee, guardian or other representative appointed by order of any court, or any municipal corporation (other than the City).
7. "Private Communications Services" means any dedicated virtual or actual

Telecommunications Services that entitle the user to the exclusive or priority use of communications channels.

8. "Service Supplier" means any Person or entity required to collect or self-impose and remit a tax as imposed by this chapter.
9. "Service User" means a Person required to pay a tax imposed by this chapter.
10. "Tax Administrator" means the city manager or his/her designee.
11. "Telecommunications Services" means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, whatever the technology used, whether such transmission, conveyance or routing occurs by wire, cable, fiber-optic, light wave, laser, microwave, radio wave (including, but not limited to, cellular service, commercial mobile service, personal communications service (PCS), specialized mobile radio (SMR) and other types of personal wireless service, regardless of radio spectrum used, switching facilities, satellite or any other technology now existing or developed after the adoption of this section, and includes, without limitation, fiber optic, coaxial cable and wireless. The term "Telecommunications Services" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such services are referred to as voice over internet protocol (VoIP) services or are classified by the Federal Communications Commission as enhanced or value added, and includes video and/or data services that is functionally integrated with Telecommunications Services. Telecommunications Services include, but are not limited to the following services, regardless of the manner or basis on which such services are calculated or billed: central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling), local number portability, text messaging, Ancillary Telecommunication Services; prepaid and post-paid services (including but not limited to prepaid calling cards); mobile telecommunications service; Private Communication Service; paging service; and 800 service (or any other toll-free numbers designated by the Federal Communications Commission). Telecommunication Service does not include charges for internet access services the taxation of which is prohibited by Federal Law, video programming services or digital downloads, such as downloads of books, music, ringtones, games and similar digital products.
12. "Telephone Corporation," "Electrical Corporation," "Gas Corporation," and "Water Corporation," shall have the same meanings as defined in

Sections 234, 218, 222, 241, respectively, of the California Public Utilities Code except, "Electrical Corporation," "Gas Corporation" and "Water Corporation" shall also be construed to include any municipality or public agency engaged in the selling or supplying of electrical power or Gas or water to a Service User. "Electrical Corporation" shall include any organization or municipality or agency engaged in the selling or supplying of electrical power to a Service User.

3.20.050 Constitutional exemptions; effect of state and federal authorization.

Nothing in this chapter shall be construed as imposing a tax upon any person when imposition of such tax upon that person would be in violation of California statute, the Constitution of the United States or the Constitution of the State of California. To the extent that the City's authorization to impose or collect the tax imposed in this Chapter is expanded or limited as a result of changes in state or federal law, no amendment or modification of this Chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the City's authorization up to the full amount of the tax imposed by this Chapter.

3.20.070 Telecommunication Users Tax.

- A. There is hereby imposed a tax upon every Person with a Billing Address or service address in the City who uses Telecommunication Services, including intrastate, interstate (including calls to the District of Columbia), and international Telecommunications Services, to the extent permitted by state and federal law. The tax imposed by this Section shall be at the rate of five percent (5%) on the charges made for Telecommunication Services and shall be collected from the Service User by the Service Supplier or its billing agent. To the extent allowed by law, the tax on Telecommunication Services shall apply to a Service User if the Billing Address or service address of the Service User is within the City's boundaries.
- B. Except as otherwise provided herein, Telecommunication Services shall include all Telecommunication Service for which there is a charge, regardless of the means or technology used to provide such services. The tax imposed under Subsection A, above shall not be imposed upon any Person for using the following Communications Services:
 - (1) Except with respect to local telephone service, services used in the collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press or by means of radio broadcasting, if the charge for such service is billed in writing to

such Person.

- (2) Services furnished to a public international organization in which the United States participates pursuant to treaty or Act of Congress, or to the American National Red Cross.
 - (3) Any toll telephone service which originates within a combat zone and is from a member of the Armed Forces of the United States performing service in such combat zone; provided a certificate, setting forth such facts as the Secretary of the United States Treasury may by regulations prescribe, is furnished to the Person receiving such payment.
 - (4) No tax shall be imposed under this Section on the amount paid for any Telecommunication Services to the extent that the amount so paid is for use by a common carrier, telephone or telegraph company, or radio broadcasting station or network in the conduct of its business.
 - (5) The installation of any instrument, wire, pole, switchboard, apparatus or equipment as is properly attributable to such installation.
 - (6) Amounts paid by a nonprofit hospital for services furnished to such organization. For purposes of this exemption, the term "nonprofit hospital" means a hospital referred to in Section 170(b)(1)(A)(iii) of the Internal Revenue Code, which is exempt from federal income tax under Section 501(a) of the Internal Revenue Code.
 - (7) Services or facilities furnished to the government of any state, or any political subdivision thereof.
 - (8) Services or facilities paid for by a nonprofit educational organization and furnished to such organization. For purposes of this subsection, the term "nonprofit educational organization" means an educational organization that is exempt from income tax under Section 501(a) of the Internal Revenue Code. The term also includes a school operated as an activity of an organization described in Section 501(c)(3) of the Internal Revenue Code, which is exempt from income tax under Section 501(a) of the same code, if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.
- C. As used in this Section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the Service User in exchange for the Telecommunication Services.
- D. To prevent actual multi-jurisdictional taxation of Telecommunication Services subject to tax under this Section, any Service User, upon proof

to the Tax Administrator that the Service User owed and has previously paid the same tax in another state or city on such Telecommunication Services, shall be allowed a credit against the tax imposed to the extent of the amount of such tax legally imposed in such other state or city; provided, however, the amount of credit shall not exceed the tax owed to the City under this Section.

- E. For purposes of imposing a tax or establishing a duty to collect and remit a tax under this Chapter, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the tax to the fullest extent permitted by state and federal law, and as it may change from time to time by judicial interpretation or by statutory enactment. Any Telecommunication Services used by a Person with a service address in the City, shall be subject to a rebuttable presumption that "substantial nexus/minimum contacts" exists for purposes of imposing a tax, or establishing a duty to collect and remit a tax, under this Chapter. For Telecommunication Services for which there is no Billing Address or primary physical location for the provision of services, the service address shall mean the point of sale of the services.

3.20.110 Penalty and interest.

- A. Taxes collected from a Service User or owed by a Service User which are not remitted to the Tax Administrator on or before the due dates provided in this Chapter are delinquent and are subject to penalties and interest. If the Person required to collect and/or remit a tax imposed under this Chapter fails to collect and remit the tax, such taxes are delinquent.
- B. Any Person who fails to remit taxes collected in the time required by this chapter shall pay a penalty of five percent of the amount of the tax, and if not remitted within two working days after the date of delinquency, shall pay a total penalty of twenty (20) percent of the amount of tax owed. Such penalty shall attach to the amount of tax due and shall be paid by the person required to collect and remit the tax.
- C. When fraud or gross negligence in reporting and remitting tax collections is discovered, the tax administrator shall have power to impose additional penalties of twenty (20) percent of taxes owed upon persons required to collect and remit taxes under the provisions of this chapter.
- D. Any Person required to remit to the tax administrator delinquent taxes as required in this section, shall pay interest at the rate of one and one-half percent per month, or portion thereof, on the amount of tax owed exclusive of penalties, from the date on which the tax first became delinquent until paid.

- E. Notwithstanding the provisions of subsections (B) and (D) of this section, no penalty or interest shall be applied if delinquencies are the result of natural disasters or other phenomena beyond the control of the person charged with collecting and remitting the tax, provided the person being delinquent notifies the tax administrator as soon as normal communications permit.
- F. Every penalty imposed under the provisions of this Chapter shall become a part of the tax required to be remitted.

3.20.120 Actions to collect.

Any tax required to be paid by a Service User under the provisions of this Chapter shall be deemed a debt owed by the Service User to the City. Any such tax collected from a Service User which has not been remitted to the Tax Administrator shall be deemed a debt owed to the City by the Person required to collect and remit and shall no longer be a debt of the Service User. In the event that a Service Supplier required to collect and remit a tax under the provisions of this Chapter fails to do so in whole or in part, the amount of such unremitted tax shall be deemed a debt owed by the Service Supplier to the City. Any Person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount, plus any collection costs incurred by the City as a result of the Person's noncompliance with this Chapter, including, but not limited to, reasonable attorney's fees.

3.20.130 Duty to collect—Procedures.

The duty to collect and remit the taxes imposed by this Chapter shall be performed as follows:

- A. The tax shall be collected insofar as practicable at the same time as and along with the charges made in accordance with the regular billing practices of the Service Supplier. Where the amount paid by a Service User to a Service Supplier is less than the full amount of the utility charge and tax which has accrued for the billing period, such amount and any subsequent payments by a Service user shall be applied to the utility charge first until such charge has been fully satisfied. Any remaining balance shall be applied to taxes due.
- B. The duty to collect tax from a Service User shall commence with the beginning of the first full regular billing period applicable to the Service User where all charges normally included in such regular billing are subject to the provisions of this Chapter. Where a Person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing.

- C. The taxes imposed by this Chapter shall be collected from the Service User by the Service Supplier. The amount of tax collected in one (1) Month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20th) day of the following Month. Should the due date occur on a weekend or legal holiday, the return may be made on the first regular working day following a Saturday, Sunday, or legal holiday. If a Service Supplier uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the Service Supplier shall: i) provide to the Tax Administrator the name, address and telephone number of each billing agent and billing aggregator currently authorized by the Service Supplier to bill, collect, and/or remit the tax to the City; and, ii) upon request of the Tax Administrator, deliver, or effect the delivery of, any information or records in the possession of such billing agent or billing aggregator that, in the opinion of the Tax Administrator, is necessary to verify the proper application, calculation, collection and/or remittance of such tax to the City.
- D. Each Person required by this Chapter to remit a tax shall file a return with the Tax Administrator on forms approved by the Tax Administrator on or before the due date. The full amount of the tax owed shall be included with the return and filed with the Tax Administrator. The Tax Administrator is authorized to require such further information as he or she deems necessary to properly determine if the tax here imposed is being levied and collected in accordance with this Chapter. Returns and remittances are due immediately upon cessation of business for any reason. Pursuant to California Revenue and Taxation Code § 7284.6, the Tax Administrator, and its agents, shall maintain such filing returns as confidential information, and not subject to the Public Records Act.
- E. The Tax Administrator may, from time to time, issue and disseminate to Service Suppliers, which are subject to the tax collection requirements of this Section, administrative rulings identifying those services that are subject to the taxes imposed by this Chapter or otherwise interpreting the provisions of this Chapter. To the extent that the Tax Administrator determines that any tax imposed under this Chapter shall not be collected in full for any period of time, such a determination falls within the Tax Administrator's discretion to settle disputes. The Tax Administrator's exercise of prosecutorial forbearance under this Section does not constitute a change in taxing methodology for purposes of Government Code Section 53750, and the City does not waive or abrogate its ability to impose the taxes under this Chapter in full as a result of issuing such administrative rulings.

3.20.150 Assessment—Administrative remedy.

- A. The Tax Administrator may make an assessment for taxes not remitted by a Person required to remit.

- B. Whenever the Tax Administrator determines that a Service User has deliberately withheld the amount of the tax owed by him from the amounts remitted to a Service Supplier, or that a Service User has failed to pay the amount of the tax for a period of two (2) or more billing periods, or whenever the Tax Administrator deems it in the best interest of the City, he or she may relieve the Service Supplier of the obligation to collect taxes due under this Chapter from certain named Service Users for specified billing periods. The Service Supplier shall provide the City with the names and addresses of such Service Users and the amounts of taxes owed or refused by the Service Users under the provisions of this Chapter.

- C. The Tax Administrator shall notify the Service User that he or she has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the Service User by handing it to him or her personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the Service User at the address to which billing was made by the Service Supplier; or should the Service User have changed his or her address, to his or her last known address. If a Service User fails to remit the tax to the Tax Administrator within fifteen (15) days from the date of the service of the notice upon him or her, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five percent (25%) of the amount of the tax set forth in the notice shall be imposed, along with interest at the rate of three-quarters of one percent ($\frac{3}{4}\%$) per Month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid, but not less than Five Dollars (\$5.00). The penalty shall become part of the tax herein required to be paid.

3.20.160 Records.

- A. It shall be the duty of every Person required to collect and/or remit to the City any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and remittance to the Tax Administrator, which records the Tax Administrator, or the Tax Administrator's designated representative, shall have the right to inspect at all reasonable times.

- B. If any Person subject to record-keeping under this Section unreasonably denies the Tax Administrator, or the Tax Administrator's designated representative, access to such records, the Tax Administrator, or the Tax Administrator's designated representative, may impose a penalty of five hundred dollars (\$500) on such Person for each day following the initial date that the Person refuses to provide such access. This penalty shall

be in addition to any other penalty imposed under this Chapter.

3.20.170 Refunds.

- A. Whenever the amount of any tax has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter, it may be refunded as provided in this Section.
- B. The Tax Administrator may refund to the taxpayer any tax that has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter, provided that no refund shall be paid under the provisions of this Section unless the taxpayer or his or her guardian, conservator, executor or administrator has submitted a written claim signed by the claimant to the Tax Administrator within one year of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto. No claim may be filed on behalf of a class or group of taxpayers unless such claim is signed by each taxpayer included in the class or group.
- C. The Tax Administrator may refund to a Service Supplier any tax that has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter, provided that the Service Supplier has submitted a written claim signed by the Service Supplier to the Tax Administrator within one year of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish that the tax sought to be refunded was collected from the Service User, that the Service User from whom the tax was collected did not owe the tax and that the amount of the tax sought to be refunded was refunded in full to the Service User prior to the Service Supplier submitting the claim.
- D. The submission of a written claim, which is acted upon by the City Council, shall be a prerequisite to a suit thereon. The City Council shall act upon the refund claim within the time period set forth in Government Code Section 912.4. If the City Council fails or refuses to act on a refund claim within the time prescribed by Government Code Section 912.4, the claim shall be deemed to be rejected by the City Council on the last day of the period within which the City Council was required to act upon the claim as provided in Government Code Section 912.4. It is the intent of the City Council that the one year written claim requirement of this section be given retroactive effect; provided, however, that any claims which arose prior to the commencement of the one year claims period of this Section, and which are not otherwise barred by a then-applicable statute of limitations or claims procedure, must be filed with the Tax Administrator

as provided in this subsection within ninety (90) days following the effective date of this Section.

- E. Notwithstanding other provisions of this Section, whenever a Service Supplier, pursuant to an order of the California Public Utilities Commission or a court of competent jurisdiction, makes a refund to Service Users of charges for past utility services, the taxes paid pursuant to this Chapter on the amount of such refunded charges shall also be refunded to Service Users, and the Service Supplier shall be entitled to claim a credit for such refunded taxes against the amount of tax which is due upon the next monthly return.

3.20.200 Bundling taxable and non-taxable charges.

If a non-taxable service and a taxable service are billed together under a single charge, the entire charge shall be deemed taxable unless the Service Supplier or taxpayer reasonably identifies actual charges not subject to the utility users tax based upon books and records that are kept in the regular course of business, in a manner consistent with generally accepted accounting principles. The Service Supplier or Taxpayer has the burden of proving the proper apportionment of taxable and nontaxable charges.

3.20.210 Exemptions.

- A. Nothing in this Chapter shall be construed as imposing a tax upon:
 - (1) Any Person or service if imposition of such tax upon that Person or service would be in violation of a federal or California statute, the Constitution of the United States or the Constitution of the State of California;
 - (2) The City;
 - (3) Any person who is exempt under section 3.20.050 of this Chapter;
- B. The exemptions granted by this Section shall not eliminate the duty of the Service Supplier from collecting taxes from such exempt individuals, or the duty of such exempt individuals from paying such taxes to the Service Supplier; unless an exemption is applied for by the Service User and granted in accordance with the provisions of this Section.
- C. Any Service User exempt from the taxes imposed by this Chapter because of the provisions of subsection A, above, may file an application with the Tax Administrator for an exemption. Such application shall be made upon a form supplied by the Tax Administrator; and shall state those facts, declared under oath, which qualify the applicant for an exemption.

- D. The Tax Administrator shall review all such applications, and shall certify as exempt those applicants determined to qualify therefor; and shall notify all Service Suppliers affected that such exemptions have been approved. For each exemption, the following information shall be transmitted to the Service Supplier:
- (1) Name of exempt applicant;
 - (2) Account number shown on utility bill;
 - (3) Address to which exempt service is being supplied; and
 - (4) Any other information as may be necessary for the Service Supplier to remove the exempt Service User from its tax billing procedure.
- E. Upon receipt of such notice, the Service Supplier shall not be required to continue to bill any further tax imposed by this Chapter from such exempt Service User, until further notice by the Tax Administrator is given. The Service Supplier shall eliminate such exempt Service User from its tax billing procedure no later than sixty (60) days after receipt of such notice from the Tax Administrator.
- F. All exemptions shall continue and be renewed automatically by the Tax Administrator, so long as the prerequisite facts supporting the initial qualification for exemption shall continue; provided, however, that the exemption shall automatically terminate with any change in the service address or residence of the exempt individual; further provided such individual may nevertheless apply for a new exemption with each change of address or residence.
- G. The Tax Administrator shall have the power and right to demand evidence of continued eligibility of a Service User for exemption under the provisions of this Section. Such evidence may include, but need not be limited to, copies of business records, letters or statements from the Social Security Administration, copies of income tax returns, and such other evidence concerning the Service User or other members of his or her household as may tend to prove or disprove such eligibility. Failure to provide such evidence as is within the control of a Service User to so provide, either directly by him or by his consent or the consent of a member of his or her household when such evidence is requested of the Service User in writing by the Tax Administrator, shall be grounds for the immediate discontinuance of the Service User's eligibility for exemption under the provisions of this Section. Evidence provided to the Tax Administrator upon request, or voluntarily provided by the Service User without request, may not be used against such Service User as evidence of violation of the provisions of this Section; such evidence may only be used as grounds for termination of the exemption herein provided.

- H. Any individual exempt from the tax shall notify the Tax Administrator within ten (10) days of any change in fact or circumstance which might disqualify said individual from receiving such exemption. It shall be a misdemeanor for any Person to knowingly receive the benefits of the exemptions provided by this Section, when the basis for such exemption either does not exist or ceases to exist.
- I. Notwithstanding any of the provisions hereof, any Service Supplier who determines by any means that a new or nonexempt Service User is receiving service through a meter or connection exempt by virtue of an exemption issued to a previous user or exempt user of the same meter or connection, such Service Supplier shall immediately notify the Tax Administrator of such fact; and the Tax Administrator shall conduct an investigation to ascertain whether or not the provisions of this Section have been complied with, and where appropriate, order the Service Supplier to commence collecting the tax from the nonexempt Service User.
- J. If the Tax Administrator determines that an application for exemption is faulty, or that the applicant has failed to truthfully set forth such facts, the application for the exemption shall be denied in writing to the applicant. The applicant shall thereafter have a right to file an amended application for exemption; or to appeal the Tax Administrator's decision to the City Manager within a 10-day period after the mailing date of the Tax Administrator's rejection. In the case of an appeal, the City Manager shall review the facts in consultation with the City Attorney, and shall render a final determination on such appeal.
- K. Upon request of the Tax Administrator, a Service Supplier, or its billing agent, shall provide a list of the names and addresses of those customers which, according to its billing records, are deemed exempt from any tax imposed under this Chapter.

3.20.220 No injunction or writ of mandate.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this Chapter of any tax or any amount of tax required to be collected and/or remitted.

3.20.230 Annual Review and Report.

The City shall prepare an annual report regarding the Utility Users Tax setting forth the amount of tax collected under this Chapter during the preceding fiscal year, a comparison of the amount of tax collected as compared to prior years and any recommendations concerning the audit or expenditure of the funds collected and/or

remitted in accordance with this Chapter. Such annual report shall be presented to the City Council and shall be a public document and made available to the public.

3.20.240 Amendment or repeal.

Taxes imposed by this Chapter may be decreased, repealed or amended by the City Council, but may not be increased without a vote of the people as required in California Constitution Article XIII C and California Government Code Section 53750(h).

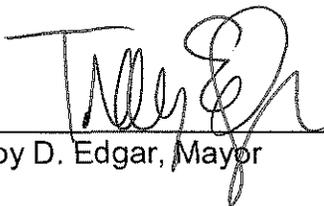
Section 2. Majority Approval. This Ordinance shall be effective only if approved by a majority of the voters voting thereon (50% + 1) and shall go into effect ten (10) days after the vote is declared by the City Council.

Section 3. Severability. If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, or portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Los Alamitos hereby declare that they would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Chapter be declared invalid or unenforceable and, to that end, the provisions of this Ordinance are severable.

Section 4. Execution. The Mayor is hereby authorized to attest to the adoption of this Ordinance by signing where indicated below.

Section 5. Certification. The City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published in a manner required by law.

PASSED, APPROVED AND ADOPTED BY A VOTE OF THE PEOPLE the 6th day of November, 2012.



Troy D. Edgar, Mayor

ATTEST:



Angie Avery, City Clerk

APPROVED AS TO FORM:



Sandra Levin, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LOS ALAMITOS)

I, Angie Avery, City Clerk of the City of Los Alamitos, do hereby certify that the foregoing Ordinance was adopted by a vote of the people during the General Municipal Election held on the 6th day of November, 2012.



Angie Avery, City Clerk